

#### 44. Reporting and Fees

##### A. Administration Reporting and Fees

1. The Contractor agrees to provide periodic utilization reports to the Contract Administrator in accordance with the following schedule:

<u>Period End</u>	<u>Report Due</u>
June 30	July 31
September 30	October 30
December 31	January 31
March 31	April 30

2. The periodic report shall include, but not be limited to the net (gross sales minus returns, credits, and deductions) sales for the period subtotaled by Purchasing Entity name, within the Purchasing Entity's state name. A standard format of data elements shall be developed for the report. The Contractor shall submit a check payable to Western States Contracting Alliance for an amount equal to one-twentieth of one percent (0.0005) of the net sales for the period.
3. The Contractor agrees to include all Reseller Agent sales in the periodic utilization reports described above. In addition, the Contractor agrees to include in the utilization report a Reseller Agent utilization report of the net sales for the period subtotaled by Purchasing Entity name, within Purchasing Entity state name by Reseller Agent Name.
4. The Contractor agrees to provide with the quarterly utilization report a supplemental report of the credits associated with the units taken back in a format to be mutually agreed to.
5. The utilization reports shall be submitted to the Contract Administrator via electronic mail in a Microsoft Excel spreadsheet format, or other methods such as direct access to Internet or other databases.
6. If requested by the Contract Administrator, the Contractor agrees to provide supporting Purchase Order detail records on a mutually agreed magnetic media in a mutually agreed format. Such requests shall not exceed twelve per year.
7. The failure to file the utilization reports and fees on a timely basis shall constitute grounds for the removal of the Contractor's primary representative, suspension of this Agreement or termination of this Agreement for cause.
8. The Contract Administrator shall be allowed access to all reports from all Purchasing Entities.

##### B. Participating Entity Reports and Fees

1. Participating Entities may require an additional fee be paid directly to the State on purchases made by Purchasing Entities within that State. For all such requests, the fee level, payment method and schedule for such reports and payments shall be incorporated in a Participating Addendum that is made a part of this Agreement. The Contractor may adjust PSS pricing accordingly for purchases made by Purchasing Entities within the jurisdiction of that State. All such agreements shall have no effect whatsoever on the WSCA fee or the prices paid by the Purchasing Entities outside the jurisdiction of the State requesting the additional fee.
2. The Contractor agrees to provide additional reports to Purchasing Entities upon agreement by both parties as to the content and delivery method of the report. Methods of delivery may include direct access to Internet or other databases.

3. Each State Purchasing Entity shall be allowed access to reports from all entities within that State.

**45. Default and Remedies**

- A. Any of the following shall constitute cause to declare this Agreement or any order under this Agreement in default:
  1. Consistent nonperformance of contractual requirements; or
  2. A material breach of any term or condition of this Agreement.
- B. A written notice of default, and an opportunity to cure within 30-days notification of the written notice, shall be issued by the party claiming default, whether the Lead State (in the case of breach of the entire Agreement), a Participating Entity (in the case of a breach of the participating addendum), the Purchasing Entity (with respect to any order), or the Contractor. Time allowed for cure shall not diminish or eliminate any liability for liquidated or other damages.
- C. If the default remains after the opportunity for cure, the non-defaulting party may:
  1. Exercise any remedy provided by law or equity;
  2. Terminate the Agreement, a Participating Addendum, or any portion thereof, including any Purchase Orders issued against the Agreement;
  3. Impose liquidated damages as mutually agreed by the parties, as specified in an Amendment to a Participating Addendum;
  4. In the case of default by the Contractor, and to the extent permitted by the law of the Participating State or Purchasing Entity, suspend Contractor from receiving future solicitations from within the Participating Entity's jurisdiction.

**46. Audits**

- A. The Contractor agrees to assist the Contract Administrator or designee with web site Product and pricing audits based on mutually acceptable procedures.
  1. The Product audit will closely monitor the Products and Services listed on the website to insure they comply with the approved Products and Services. The addition of Products or Services not approved by the Contract Administrator will not be tolerated and may be considered a material breach of this Agreement.
- B. Upon request, the Contractor agrees to assist Participating Entities with invoice audits to ensure that the Contractor is complying with this Agreement in accordance with mutually agreed procedures set forth in the Participating Addendum.

**47. Extensions**

If specifically authorized by provision in a Participating Addendum, the Contractor may, at the sole discretion of the Contractor and in compliance with the laws of the Participating State, offer Products and Services to non-profit organizations, private schools, Native American governmental entities, government employees and students within the governmental jurisdiction of the entity completing the Participating Addendum with the understanding that the State has no liability whatsoever concerning payment for Products or Services.

**48. Sovereign Immunity**

The State does not waive its sovereign immunity by entering into this Agreement and fully retains all immunities and defenses provided by law with regard to any action based on this Agreement.

**49. Ownership**

- A. **Ownership of Documents/Copyright.** Any reports, studies, photographs, negatives, databases, computer programs, or other documents, whether in tangible or electronic forms, prepared by the Contractor in the performance of its obligations under the Agreement and paid for by the State shall be the exclusive property of the State and all such material shall be remitted to the State by the Contractor upon completion, termination or cancellation of the Agreement. The Contractor shall not use, willingly allow or cause to allow such material to be

used for any purpose other than performance of the Contractor's obligations under the Agreement without the prior written consent of the State.

- B. Rights, Title and Interest.** All rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trade marks, and service marks in the said documents that the Contractor conceives or originates, either individually or jointly with others, which arise out of the performance of the Agreement and are expressly ordered as a work product, will be the property of the State and are, by the Agreement, assigned to the State along with ownership of any and all copyrights in the copyrightable material. The Contractor also agrees, upon the request of the State, to execute all papers and perform all other acts necessary to assist the State to obtain and register copyrights on such materials. Where applicable, works of authorship created by the Contractor solely for the State in performance of the Agreement shall be considered "works for hire" as defined in the U.S. Copyright Act. Nothing in this Agreement shall be construed as transferring any right, title, or interest in any of the Contractor's or their third party's confidential information, trademarks, copyrights, intellectual property or other proprietary interest. Except as expressly agreed by the Contractor in connection with a Work Order, the Contractor does not produce any work product under this Agreement such that an assignable interest in intellectual property would result.

**50. Prohibition Against Gratuities**

- A.** The State may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this Agreement if it is found by the State that gratuities in the form of entertainment, gifts, or otherwise were offered or given by the Contractor or any employee, agent, or representative of the Contractor to any officer or employee of the State with a view toward securing this Agreement, or securing favorable treatment with respect to the award or amendment of this Agreement, or the making of any determinations with respect to the performance of this Agreement.
- B.** The Contractor certifies that no elected or appointed official or employee of the State has benefitted or will benefit financially or materially from this Agreement. This Agreement may be terminated by the State if it is determined that gratuities of any kind were either offered to or received by any of the aforementioned individuals from the Contractor, its agent, or its employees.

**51. Antitrust**

The Contractor hereby assigns to the State any and all claims for overcharges as to Products and/or services provided in connection with this Agreement resulting from antitrust violations which arise under antitrust laws of the United States and the antitrust laws of the State.

**52. Right to Publish**

- A.** Any publicity given to the program, publications or Services provided resulting from the Agreement, including but not limited to notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Contractor, or its employees individually or jointly with others, or any Subcontractors or Reseller Agents shall identify the State as the sponsoring agency and shall not be released, unless such release is a specific part of an approved work plan included in the Agreement prior to its approval by the Contract Administrator.
- B.** The Contractor shall not make any representations of the State's opinion or position as to the quality or effectiveness of the Products and/or Services that are the subject of this Agreement without the prior written consent of the Agreement Administrator. Representations include any publicity, including but not limited to advertisements, notices, press releases, reports, signs, and similar public notices.

**53. Performance While Dispute is Pending**

Notwithstanding the existence of a dispute, the parties shall continue without delay to carry out all of their responsibilities under this Agreement that are not affected by the dispute. If a party fails to

continue without delay to perform its responsibilities under this Agreement, in the accomplishment of all undisputed work, any additional cost incurred by the other parties as a result of such failure to proceed shall be borne by the responsible party.

**54. Hazardous Substances**

To the extent that the goods to be supplied to the Purchasing Entity by the Contractor contain or may create hazardous substances, harmful physical agents or infectious agents as set forth in applicable State and federal laws and regulations, the Contractor must provide the Purchasing Entity with Material Safety Data Sheets regarding those substances (including mercury). If Applicable a copy must be included with each delivery.

**55. Customer Satisfaction/Complaint Resolution**

- A. The Contractor's process for resolving complaints concerning Products, support, and billing problems is attached as **Exhibit B**.
- B. The Contractor will submit a format for a survey for approval by the Contract Administrator. The Contractor will survey its customers in each Participating State two (2) months prior to the annual meeting with the Contract Administrator.

**56. Value Added Services**

The Contractor is expected to provide such services as installation, training, and software imaging upon request of the Purchasing Entity. Additional Value Added Services offered by the Contractor are attached as **Exhibit C**, including relative costs associated with those Services.

**57. E-Rate Program**

The Contractor's E-Rate identification number is SPIN 143004390. The following is a list of E-Rate qualifying products: Communications Server, DIMM, Ethernet Card, Ethernet Converter, Ethernet Network Module, File Transfer Protocol, Graphic Card Adapters, LAN, Laptop Computer, Monitors, Network Interface Card, Network Interface Device, Personal Computers, Printer, Rack Mounted Power Strips, RAID, Servers, Tape Backup, Terminal Adapter, Terminal Server, Uninterruptable Power Supply, and Web Server.

The Contractor shall make every effort to continue its involvement in this program and to add Products as applicable.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of execution by the State of Minnesota, Commissioner of Administration, below.

**1. MPC-G, LLC**

The Contractor certifies that the appropriate person(s) have executed this Agreement on behalf of the Contractor as required by applicable articles, bylaws, resolutions, or ordinances.

By: Brian J. Hansen

Title: VP Legal General Counsel

Date: 7/1/04

By: Michael J. Allen

Title: President, Chief Executive Officer

Date: 7/1/04

**2. MATERIALS MANAGEMENT DIVISION**

In accordance with Minn. Stat. § 16C.03, Subd. 3.

By: Bernadette Kopischke

Title: Acquisition Management Specialist

Date: 7/6/04

**3. COMMISSIONER OF ADMINISTRATION**

Or delegated representative

By: Paul H. Allen

Date: 6/24/04

## **EXHIBIT A - ADDITIONAL WARRANTIES**

### **Desktop, Notebook, & Server Limited Parts Warranty and Technical Support Policy**

MPC Computers, LLC ("MPC") provides parts warranties and technical support as part of your system purchase. Terms of any service agreement covering your system are contained in a separate service contract (if applicable). If you purchased your system through an MPC-authorized reseller or distributor, and received a separate warranty contract, those provisions will apply to your purchase. Otherwise, the information contained within this Limited Warranty will apply.

An "MPC Product" is a complete system including, as applicable, monitor, keyboard, mouse, and speakers that are manufactured by MPC. A "Customized MPC Product" is an MPC Product that contains third-party components or associated peripherals that are specific to a particular MPC customer. A "Third-Party Product" is any item that is procured and resold by MPC that is not part of an MPC Product or Customized MPC Product (e.g. printer, scanner, uninterruptible power supply, etc.)

#### **Limited Warranty**

MPC warrants that the hardware (but not the software or notebook batteries) included in the original MPC Product, paired with or shipped as part of an order modification made within 30 days of the original MPC Product shipment, will be free from defects in materials and workmanship for the term shown on the front of your invoice or packing slip. Notebook batteries carry a One-Year Limited Warranty.

If you purchased an MPC Product from an MPC-authorized reseller or distributor, your Limited Warranty coverage will extend 90 days beyond the Limited Warranty term purchased by the reseller from MPC. The warranty term begins on the original MPC system ship date (proof of purchase may be required). The original ship date for each MPC system is noted online at <http://support.buympc.com/index.html> (enter the system serial number in the required field), or the ship date can be obtained from the authorized reseller or distributor.

If you purchased an "open box" system, defined as a system previously owned by another end-user, from an MPC-authorized reseller or distributor, only the remainder of the MPC Limited Warranty will apply (proof of purchase may be required).

Third-party components or associated peripherals contained within or shipped with a Customized MPC Product or Third-Party Product are covered by their respective manufacturers' warranties, not by this Limited Warranty, unless otherwise agreed to in writing by MPC. If applicable, consult the manufacturer's warranty that accompanies the Customized MPC Product or Third-Party Product for details (if any).

#### **Ninety-Day Replacement Parts Limited Warranty**

Replacement parts shipped by MPC are warranted against defects in materials or workmanship for 90 days from the date of shipment by MPC or until the expiration of the Limited Warranty, whichever is longer. Replacement notebook batteries are warranted for 90 days from the date of shipment by MPC or until the expiration of the original One-Year Limited Warranty, whichever is longer.

#### **Terms of Limited Warranties**

The Limited Warranty and the Ninety-Day Replacement Parts Limited Warranty become effective on the date of shipment from MPC. Except as expressly provided, the limited warranties are non-transferable. Limited warranties for "open box" systems may be transferred to the system's new owner provided the system was repurchased from an MPC-authorized reseller or distributor. The system's new owner must retain the serial number of the system to receive warranty service from MPC.

Any claims under these warranties must be made before the end of the applicable warranty period. During such period, MPC, at its sole discretion, will repair, replace, credit, or refund any defective part (which is determined by MPC to be defective in materials or workmanship) covered by the Limited Warranty or the Ninety-Day Replacement Parts Limited Warranty.

Any parts replaced by MPC become the property of MPC. MPC reserves the right to substitute functionally equivalent or serviceable reconditioned parts when replacing a defective part. Labor may be provided pursuant to a separate service agreement between you and an MPC-authorized service provider and will be provided pursuant to the terms of such a service contract (if applicable). The cost of labor is not covered by any MPC warranty.

The Limited Warranty and Ninety-Day Replacement Parts Limited Warranty cover only defects arising under normal use and do not include malfunctions or failures resulting from: misuse, abuse, neglect, alteration, problems with electrical power, usage not in accordance with product instructions, acts of nature, unusual temperatures or humidity, improper

installation or damage determined by MPC to have been caused by you, or damage caused by repairs attempted where such repairs were made without MPC's approval. Removal of hardware from an MPC system and use of such hardware in a different system or configuration voids all applicable limited warranties related to such hardware. The Limited Warranty and Ninety-Day Replacement Parts Limited Warranty do not cover defects or damage arising from the disassembly, or attempted disassembly, of Products without MPC's approval.

#### **Technical Support**

MPC provides toll-free telephone technical support to expedite service under these limited warranties. Telephone technical support is limited to your original system configuration and its hardware components during the warranty period. Toll-free telephone assistance is available to customers located in the 50 states of the United States of America, Canada, and Puerto Rico.

If you purchased your system directly from MPC, you will receive toll-free telephone technical support service with respect to the configuration of factory-installed software for 30 days (unless otherwise documented) from the date of shipment by MPC. If you purchased your new system from an MPC-authorized reseller or distributor, you will receive telephone technical support service with respect to the configuration of factory-installed software for 30 days from the date of purchase (proof of purchase may be required).

Network Operating System (NOS) support is available, in the form of incident resolutions, for factory-installed, server operating systems sold by MPC. If you purchased NOS support or if it was included with your server, such service will be provided for the duration of your Limited Warranty or until each incident resolution has been used, whichever comes first. Additional incident resolutions may be purchased by calling your MPC Sales Representative.

The MPC telephone technical support phone numbers are:

- Home/Small Business (<100 employees) (877) 894-5693
- Medium/Large Business (>100 employees) (877) 894-5694
- Government/Education (877) 894-5695
- Outside Toll-free Coverage Area (208) 893-3434

#### **Parts and System Replacement Policy and Procedures**

When a replacement part or system is required during the warranty period, you are responsible for returning the defective part or system to MPC as outlined below. For the purposes of these limited warranties, an international customer is a customer located outside the 50 states of the United States of America.

1. Prior to returning a part or system to MPC for warranty service, call the applicable Technical Support number listed in the "Technical Support" section of this document, and request a Return Merchandise Authorization (RMA) number.
2. To receive an RMA number, provide MPC with your valid charge card number (VISA, MasterCard, or other card acceptable to MPC) or an MPC-authorized Open Purchase Order to cover the replacement cost of the part or system. This charge will be assessed ONLY if you fail to return the defective part or system within the required time. If you cannot provide your valid charge card number or MPC-authorized Open Purchase Order, MPC will not ship replacement parts or systems until the defective part or system has been received by MPC.
3. Once an RMA number is issued, the replacement part or system will be shipped by MPC (subject to availability), freight prepaid via ground delivery service. You will receive a prepaid return label with the replacement part or system for returning the defective part or system to MPC. (If you are an international customer, the replacement part or system will be shipped by MPC, freight prepaid, via MPC's preferred method of shipment. You are responsible for Customs clearance, including payment of all related duties and taxes and any other fees and charges imposed by non-US government or quasi-governmental agencies or officials. You are also responsible for paying all costs of returning the defective part or system to MPC. These costs may include shipping, insurance, import and export duties or taxes, and any other fees or charges imposed by government or quasi-governmental agencies or officials.) MPC shall not be responsible for failure of the delivery service to make on-time delivery.
4. Ship the defective part or system to MPC in the original or equivalent packaging with the RMA number clearly displayed on the outside of the shipping container. You shall assume all risk of loss or damage to Product while in transit. (International customers must ship the part or system to MPC via DHL, Federal Express, UPS, or another courier approved in advance by MPC.).

5. If you are shipping a hard drive or other device containing data, you are responsible for backing up such data prior to shipment.\*\*
6. Return of the defective part or system must be made within 10 business days (30 business days for international customers) from the date you receive your replacement part.
7. Retain your shipping information, including tracking numbers, until your customer account has been credited by MPC. This will serve as your proof of return.
8. If MPC determines that the cause of the failure of the part or system was not a result of a defect in materials or workmanship (e.g. customer abuse), MPC reserves the right to charge you for parts, labor (at MPC's then current labor rate), and shipping expenses in order to perform repair or replacement services. MPC will advise you prior to assessing these charges.

\*If you return a part or system to MPC: (1) without prior authorization from MPC, (2) beyond the period prescribed by MPC for such return, (3) without an RMA number displayed on the outside of the shipping container, or (4) without proper packaging, MPC retains the right to refuse delivery of such return. In the event you fail to return the part or system to the designated facility within the required time period, MPC retains the right to: (1) charge you the retail price of such part or system at the time the part or system was shipped to you (as determined by MPC), plus a charge of \$60 to cover MPC's collection and handling costs, (2) charge you for any other collection or legal expenses incurred due to such failure to return, or (3) inactivate your account until such payment is made. While your account is inactivated, you shall not be provided with technical support or customer and warranty service. UNDER NO CIRCUMSTANCES SHALL MPC REFUND SHIPPING AND HANDLING CHARGES.

\*\*MPC IS NOT RESPONSIBLE FOR LOST DATA OR THE LOSS OF THIRD-PARTY HARDWARE AT ANY TIME. PRIOR TO SHIPPING A SYSTEM TO MPC, BACK UP ALL DATA STORAGE DEVICES.

#### **Special Notice to International Customers**

International customers who purchase MPC systems directly from MPC (not through an authorized international distributor) must obtain warranty service directly from MPC. Customers who purchase directly from MPC, but choose to receive service elsewhere, will be responsible for any service charges.

International customers who purchase from an MPC-authorized distributor may receive warranty service directly from MPC or from the authorized distributor. Service for such systems must be arranged with the distributor and is subject to conditions and fees established by the distributor.

#### **Force Majeure**

MPC shall not be liable for any delay in performance directly or indirectly caused by or resulting from acts of nature, fire, flood, accident, riot, war, government intervention, embargoes, strikes, labor difficulties, equipment failure, late deliveries by suppliers, or other difficulties which are beyond the control and without the fault or gross negligence of MPC. Quantities are subject to availability.

#### **Limitations**

MPC MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO SOFTWARE INCLUDED IN ANY PRODUCTS SOLD BY MPC, AND ALL SOFTWARE IS SOLD "AS IS" AND "WITH ALL FAULTS."

EXCEPT AS SET FORTH HEREIN, MPC MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, AND DISCLAIMS AND NEGATES ALL OTHER WARRANTIES, INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND CONFORMITY TO MODELS OR SAMPLES. SOME JURISDICTIONS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES, SO THESE LIMITATIONS MAY NOT APPLY TO YOU.

THE WARRANTIES SET FORTH HEREIN GIVE YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY HAVE OTHER RIGHTS WHICH VARY FROM JURISDICTION TO JURISDICTION.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE EXCLUSION OR LIMITATION MAY NOT APPLY TO YOU.

NO VARIATION OR EXCEPTIONS IN THE TERMS STATED HEREIN CAN BE MADE WITHOUT WRITTEN AUTHORIZATION BY THE CHIEF EXECUTIVE OFFICER OF MPC.



#### **Use of Products in Life Support, Nuclear, and Certain Other Applications**

PRODUCTS SOLD BY MPC ARE NOT AUTHORIZED FOR USE AS CRITICAL COMPONENTS IN MEDICAL DEVICES OR SYSTEMS OR IN NUCLEAR FACILITIES WITHOUT THE EXPRESS WRITTEN APPROVAL OF THE CHIEF EXECUTIVE OFFICER OF MPC. IF YOU USE OR SELL THE PRODUCTS FOR USE IN ANY SUCH APPLICATIONS: (1) YOU ACKNOWLEDGE THAT SUCH USE OR SALE IS AT YOUR SOLE RISK; (2) YOU AGREE THAT MPC IS NOT LIABLE, IN WHOLE OR IN PART, FOR ANY CLAIM OR DAMAGE ARISING FROM SUCH USE; AND (3) YOU AGREE TO INDEMNIFY, DEFEND, AND HOLD MPC HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LOSSES, COSTS, EXPENSES, AND LIABILITIES ARISING OUT OF OR IN CONNECTION WITH SUCH USE OR SALE.

#### **Limitation of Liability**

In no event shall MPC or its affiliates be liable for any indirect, special, incidental, or consequential damages resulting from MPC's performance or failure to perform under this sale, or from the furnishing, performance, or use of any goods or service sold pursuant hereto, whether due to a breach of contract, breach of warranty, the negligence of MPC, loss of data, or otherwise.

#### **No Warranty of Intellectual Property Rights**

YOU EXPRESSLY UNDERSTAND AND AGREE THAT MPC DOES NOT WARRANT THAT PRODUCT(S) ARE FREE OF CLAIMS OF PATENT, TRADEMARK, TRADE SECRET, OR COPYRIGHT INFRINGEMENT BY A THIRD PARTY. MPC HEREBY DISCLAIMS ANY SUCH WARRANTIES OR INDEMNIFICATION FOR SUCH INFRINGEMENT(S) OF INTELLECTUAL PROPERTY RIGHTS.

#### **Substitutions and Modifications**

MPC reserves the right to substitute or change materials, parts, product specifications, or functional attributes at any time without notice. MPC also reserves the right to ship Product in multiple boxes and/or shipments.

#### **User Rights to Software**

The software included with the Product is protected by copyright law and/or international treaty provisions. Rights relating to a particular software program are listed in the license agreement document provided by the owner(s) of the software included with the Product. Title to software remains with the applicable licensor(s).

#### **Government License Rights and Rights in Technical Data**

This order includes only Commercial Items. As set forth in FAR Part 12, Acquisition of Commercial Items, the Government shall acquire only those software license rights and rights in technical data that MPC customarily provides to the public in connection with the Products.

#### **Governing Law, Jurisdiction, and Costs**

These limited warranties are incorporated into and are essential material provision of the Terms and Conditions of Sale of MPC Products to you (Sale Terms). All disputes arising out of or related to the limited warranties set forth herein shall be governed by the laws of the state of Idaho. You hereby consent to the jurisdiction and venue of the state courts of Idaho to resolve any and all disputes with MPC, and you waive all defenses to such jurisdiction and venue including, but not limited to, any defense based on inconvenient forum. In the event you and MPC are unable to resolve any dispute, and any collection action, suit, or other judicial proceeding is commenced, the prevailing party in any such collection action, suit, or judicial proceeding shall be entitled to recover its costs and reasonable attorney's fees incurred.

FLY001446-00  
02-06-2004

**MPC Computers, LLC (MPC) Parts Warranty (for parts purchased separate from a system purchase)**

MPC Computers, LLC ("MPC") warrants that parts\* purchased separate from a desktop, notebook or server system purchase will be free from defects in materials and workmanship for the time periods set forth herein (unless otherwise agreed to in writing by MPC):

1. Except as provided below, parts associated with and shipped within 30 days of an MPC desktop, notebook or server system, carry the system warranty. Coverage begins on the ship date of the part and ends when system warranty ends. Exception: Notebook batteries shipped within 30 days of a system, carry a maximum warranty of one-year from the system ship date.
2. Parts shipped more than 30 days after a desktop, notebook or server system or not associated with a system, carry a ninety-day warranty, beginning on the ship date.
3. Monitors shipped more than 30 days after a desktop, notebook or server system or not associated with a system, carry a three-year warranty, beginning on the ship date.

MPC's Limited Warranties and Terms and Conditions of Sale apply to the purchase of parts, except as expressly set forth herein.

\*For the purposes hereof, "parts" means internal components and external peripherals (e.g. keyboard, mouse, and speakers) typically included with or configured with MPC desktop, notebook and server systems. This warranty does not pertain to third-party products purchased through MPC Parts & Accessories, which are covered by their respective manufacturer's warranties. Software products purchased separate from a system purchase are covered by their respective manufacturer's warranties, not by this warranty.

FLY001402-00  
02-03-2003

## **EXHIBIT B - COMPLAINT RESOLUTION**

Account Managers for WSCA states will be the single point of contact for all issues associated with their accounts. The WSCA Account Manager has the experience and authority to take action and make decisions to ensure their customers' expectations are met or exceeded throughout the relationship with MPC. The Account Manager works directly with internal MPC departments to resolve issues.

### **A. Escalation Process.**

Telephone Support normally initiates escalations in response to problems identified by customers; however, any MPC Department may identify a problem they feel requires special handling. Escalated problems are entered in the Escalation Database, updated frequently and resolved as soon as possible. The Escalation Database is intended to identify critical customer issues and to concentrate MPC resources to provide effective customer response. The fact that an Escalation Case has been opened identifies the issue as crucial to our relationship with a customer and requires that an expedited resolution be provided. Complete documentation for an Escalation Case ensures critical issues are addressed through to resolution. Additionally, the database provides a central repository providing MPC access to the current status of an escalation case.

### **B. Reasons to Escalate Problems.**

The following criteria are used to identify customer issues that are immediately escalated for expeditious response.

1. Severity level of call: emergency status for inability to work. Customer has classified the problem as an emergency. This may be the result of:
  - a. Non-availability of a work-around
  - b. Significant impact to a user (i.e. the customer's President's machine)
  - c. Significant business impact (i.e. a payroll machine)
2. Recurring problem. A problem reported previously resolved has recurred. This may indicate the problem's "root cause" has not yet been discovered and resolved. The problem requires further technical research and an effective resolution.
3. Incorrect Resolution. Situation where the customer was given a resolution, implemented the resolution, and the problem is not resolved. The resolution may have been given over the telephone, on-site intervention, or through RMA replacement parts. As a result of the incorrect resolution customer downtime is extended.
4. Server-related calls, such as "server is down." Non-operational servers require immediate response.
5. Dissatisfied Customer. Customers that are dissatisfied with an MPC product in any way are escalated.
6. Problem suspected to be caused by System Configuration or Production Methods. Problems are escalated as they may affect multiple systems and other customers.

### **C. Additional Information.**

Exhibit #1-5 in the response to the RFP illustrates a few of the internal escalation procedures (including problem escalation procedures and timelines) as they relate to service, equipment, and billing.

## **EXHIBIT C - VALUE ADDED SERVICES**

Contact the Contractor for more details on these Services and their related costs:

**A. MPC Customization Team.** Recognizing that every customer is unique, we have created a team of engineers who perform customization services far beyond the scope of our standard CTO process. MPC integrates and tests third party components in our systems and provides customized warranty services to meet the needs of any unique situation. MPC procured third party components, integrated them, tested them and shipped them. We also stocked specific components as required by the customer for manufacturing purposes as well as maintaining spares for warranty support.

**B. Value-Added Server Services.**

1. **Five (5) Years On-site & Technical Support.** MPC offers our customers the ability to upgrade, at a minimal cost, up to five (5) years of on-site and technical support.
2. **Four (4) Hour and Eight (8) Hour On-site Services.** If the customer needs the highest level of availability from their servers and storage, choose MPC's Four (4) Hour or Eight (8) Hour On-site Service - available 24 hours a day, seven (7) days a week. Depending on the service level purchased, an on-site technician will arrive at a site, with the necessary replacement part(s) in hand, within four or eight hours of being dispatched. The technician will then replace the defective part(s), verify system functionality, and return the defective part(s) to MPC. Availability of Service is based on the driving distance between the server/storage location and the nearest parts depots: a maximum of 60 miles driving distance for Four (4) Hour On-site Service and 125 miles for Eight (8) Hour On-site.
3. **Parts & Technical Support Coverage.** When customers have the technical expertise to provide their own service, MPC offers the flexibility of extended parts coverage, which includes hardware technical support. Coverage is available for up to five (5) years. This service is available throughout the United States.
4. **Self-Maintainer.** MPC also provides a "Self Maintainer" program that allows client teams and IT departments to order replacement components online for repair/replacement as needed.
5. **Spare Parts Kits.** To further enhance MPC's Warranty and Technical Support offering as well as the optional Self-Maintainer Program MPC suggests the purchase of spare parts kits [one (1) per every 100 systems ordered]. The customer's IT staff can pull parts from the kits and order replacement parts online without calling a Help Desk.
6. **Installation of third party components.** Many third party components can be qualified for installation in the systems at the factory.
7. **Installation of third-party software.** Many third party software applications can be qualified for installation in the systems at the factory.
8. **Nonstandard hardware configurations.** Select from any of MPC's pre-qualified components to build a non-standard configuration. Install additional drives, specify component placement within the system chassis, or strip a system bare.
9. **Asset labeling.** MPC generated or customer-supplied asset labels can be applied anywhere on the systems during manufacturing.
10. **Hard Drive Protection Plan.** MPC's innovative Hard Drive Protection Plan permits customers to maintain control of confidential information that has been stored on customer hard drives. Should a covered hard drive fail under normal warranty conditions, the customer keeps the failed drive and MPC will send a replacement drive.

### **C. Value Added Telephone Services.**

1. **NOS Server.** Three Network Operating System (NOS) technical support resolutions are bundled with the sale of each of our NetFRAME servers, and additional NOS resolutions are available for purchase. NOS resolutions allow our server customers to receive assistance with technical issues that are not necessarily hardware related, but may be caused by unfamiliarity or inexperience with the operating system software.

### **D. Value Added Desktop Services.**

1. **Five (5) Years On-site & Technical Support.** MPC offers our customers the ability to upgrade, at a minimal cost, up to five (5) years of one-site and technical support.
2. **Four Hour On-site Service.** For the highest level of availability from the desktops, choose MPC's four-hour on-site service available Monday through Friday between 8:00 a.m. and 5:00 p.m. customer local time. An on-site technician will arrive at the site, with the necessary replacement part(s) in hand, within four business hours of being dispatched. The technician will then replace the defective part(s), verify system functionality, and return the defective part(s) to MPC. Availability of Service is based on the driving distance between the desktop location and the nearest parts depots: a maximum of 60 miles driving distance for Four Hour On-site Service from 63 identified major metropolitan locations.
3. **On-site Advanced Exchange.** (available for ClientPro All-in-One): If customers experience an in-warranty system failure, MPC will send a re-configured, re-serialized replacement shell (to match the original system) to the MPC authorized field technician nearest them. The technician will call to schedule an on-site appointment, arrive to transfer the customer replaceable units (CRUs) (i.e. hard drive, optical drive, TV tuner, memory, and mini PCI card) to the replacement shell, make sure everything is working properly, and then ship the original shell back to MPC using the pre-paid shipping materials provided.
4. **SystemSat.** (available for ClientPro All-in-One): MPC will repair or replace the system should an accident (water or coffee spill, etc) happen. Add SystemSat to any of the following All-in-One services: On-site Service, Advanced Exchange, or On-Site Advanced Exchange.
5. **Self-Maintainer.** MPC also provides a "Self Maintainer" program that allows client teams and IT departments to order replacement components online for repair/replacement as needed.
6. **Spare Parts Kits.** To further enhance MPC's Warranty and Technical Support offering as well as the optional Self-Maintainer Program MPC suggests the purchase of spare parts kits [one (1) per every 100 systems ordered]. The customer's IT staff can pull parts from the kits and order replacement parts online without calling a Help Desk.
7. **Hard Drive Imaging.** Maintenance imaging is achieved via pre-deployment planning, inventory management and engineering support.
8. **Revision Control.** Some organizations require that their system configuration remains the same over an entire deployment period. For an agreed period of time, MPC can hold the configuration constant, minimizing deployment and support issues over time.
9. **Installation of third party components.** Many third party components can be qualified for installation in the systems at the factory.
10. **Installation of third-party software.** See Server services for description.
11. **Nonstandard hardware configurations.** See Server services for description.
12. **Asset Labeling.** See Server services for description.
13. **Hard drive protection.** See Server services for description.

**E. Value Added Laptop Services.**

1. **Advanced Portable Exchange.** If MPC's technical support and the customer determine that a notebook shell is defective, MPC will provide a replacement shell excluding the Customer Replaceable Units (CRUs). Once the customer has transferred the CRUs from the defective notebook shell to a replacement shell, customers package the defective shell and ship it back to the designated MPC depot repair facility, using the pre-paid shipping materials provided by MPC.
2. **On-site Notebook Exchange.** If MPC's technical support and the customer determine that a notebook is defective, an MPC authorized technician is sent on-site to replace the defective notebook shell, defined as a fully assembled notebook including the memory and central processing unit (CPU), but excluding Customer Replaceable Units (CRUs). CRUs are internal notebook hardware that can easily be replaced or removed by a customer.
3. **Hard Drive Protection Plan.** See Server services for description.
4. **Hard Drive Imaging.** See Server services for description.
5. **Installation of third party components.** See Server services for description.
6. **Installation of third party software.** See Server services for description.
7. **Nonstandard hardware configurations.** See Server services for description.
8. **Asset labeling.** See Server services for description.

**F. Value Added Storage Services.** See Server services for descriptions of these services.

1. Five (5) Years On-site & Technical Support.
2. Four (4) Hour and Eight (8) Hour On-site services.
3. Parts & Technical Support Coverage.
4. Self-Maintainer.
5. Spare Parts Kits.
6. Hard Drive Protection Plan.

**G. Value Added Warranty Upgrades.** MPC realizes that our customers wish to maximize use of their I.T. investment. MPC offers the ability to upgrade the warranty period on all of our computing platforms to five (5) years total. Warranty extensions may be selected at the time of sale, but they are also available up to three (3) years after the system ships. Additionally, MPC offers the ability to extend the service coverage for third party components such as printers, PDAs, digital cameras and other office equipment.

**H. Value Added Deployment Services.**

1. **Project management.** MPC can provide project management to assist in planning and implementing computer deployments.
2. **Warehousing.** MPC utilizes warehousing provided by third parties to optimize delivery of new computer equipment to the location(s) based on the number of systems to be installed, available storage space, and other logistical considerations.
3. **Delivery.** MPC can help manage specific delivery schedules to make deployment of new computers easy. In conjunction with warehousing, delivery can be staged to address the specific circumstances of any particular location.

**4. Deployment.**

- a. De-installation and installation.
- b. Software installation/configuration
- c. Data migration
- d. Asset labeling/documentation.

**I. Value Added Disposal Service.**

- 1. Equipment removal/storage. Another way MPC can assist with the logistics of deploying new computers is to remove the legacy equipment, either by shipping to a pre-arranged destination, or by providing storage until a customer has an opportunity to dispose of the equipment in the manner of customer's choosing.
- 2. Disk sanitization. MPC can remove data from a de-installed hard drives. MPC can also provide documentation of disk sanitization.
- 3. Equipment disposal/recycling. MPC teams with industry-leading recycling companies to provide cost-effective, environmentally responsible disposal of computer equipment.

**J. Other Logistic Services.**

- 1. Relocation. MPC can manage the logistics of relocating computer and other office equipment from one location to another. Relocation tasks can include de-installation of equipment, packing and shipping to a specific location, and re-installation of equipment at the new location.
- 2. System upgrades. When customers purchase components to upgrade a PC's performance or capabilities, MPC can help integrate the new components into the computer. MPC can provide on-site service for professional installation of system upgrades.

**K. Time and material service calls.** Occasionally, customers may need on-site service to solve issues not covered under the terms of their service agreement or when a service agreement has expired. Time and material service calls allow MPC to arrange for an on-site field technician to come to a site to assist with technical issues and/or part replacements. These service calls are billed at an hourly, daily, or weekly labor rate (plus the cost of parts).

**L. Value Added Training.** The center of our total e-learning solution is KnowledgeHub, a comprehensive and fully hosted LMS. KnowledgeHub, when combined with over 800 business and information technology courses and our quality deployment and support service, powers the most effective total e-learning solution available today. KnowledgeHub provides a wide range of new student management, course management, assessment and personalization functionality that will deliver e-learning with a human touch. Contact the Contractor for the course list.

**M. Value Added Networking Services.** These services are NOT to include any telephony services. They may include Cisco implementation services, IP video surveillance, network assessments, Network optimization program, Network traffic management, and security services.